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THIS IS NOT A DISCIPLINARY
ACTION OR FINAL DECISION
OF THE BOARD

BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. AC-2011-16

12 **DANIEL F. STULAC**
13 **4700 Kinzie Avenue**
14 **Racine, WI 53406**

ACCUSATION

15 **Certified Public Accountant**
16 **Certificate No. 77311**

Respondent.

17
18 Complainant alleges:

19 PARTIES

- 20 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as
21 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.
- 22 2. On or about April 8, 1999, the California Board of Accountancy (CBA) issued
23 Certified Public Accountant Certificate Number 77311 to Daniel F. Stulac (Respondent). The
24 Certified Public Accountant Certificate expired on July 31, 2004, and has not been renewed.
25 Effective August 1, 2009, the certificate was cancelled pursuant to California Business and
26 Professions Code section 5070.7 for failure to renew the certificate within five (5) years.
- 27
28

JURISDICTION

3. This Accusation is brought before the CBA under the authority of the following laws.

All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 5063(a)(3) states:

(a) A licensee shall report to the board in writing of the occurrence of any of the following events occurring on or after January 1, 1997, within 30 days of the date the licensee has knowledge of these events:

...

(3) The cancellation, revocation, or suspension of the right to practice as a certified public accountant or a public accountant before any governmental body or agency.

5. Section 5100 states:

After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

....

(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

(h) Suspension or revocation of the right to practice before any governmental body or agency.

....

"(l) The imposition of any discipline, penalty, or sanction on a registered public accounting firm or any associated person of such firm, or both, or on any other holder of a permit, certificate, license, or other authority to practice in this state, by the Public Company Accounting Oversight Board or the United States Securities and Exchange Commission, or their designees under the Sarbanes-Oxley Act of 2002 or other federal legislation."

6. Section 5107(a) of the Code states:

The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a violation or violations of this chapter to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees. The board shall not recover costs incurred at the administrative hearing.

1 *Diego, California. Peregrine's primary business involved selling infrastructure*
2 *management software. From its initial public offering in April 1997, until it merged*
3 *with Hewlett-Packard in 2005, Peregrine's common stock was registered with the*
4 *Commission pursuant to Section 12(g) of the Securities Exchange Act of 1934*
5 *("Exchange Act"). It traded on the Nasdaq National Market System from its initial*
6 *public offering until August 30, 2002, when it was delisted and quoted on the Pink*
7 *Sheets. In February 2003, Peregrine announced the restatement of \$509 million of*
8 *revenue it had improperly recorded.*

9 *On September 14, 2009, a final judgment was entered against Stulac,*
10 *permanently enjoining him from future violations of Sections 10(b) of the Exchange*
11 *Act and Rule 10b-5 thereunder, and from aiding and abetting violations of Section*
12 *13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder, in the civil action*
13 *entitled Securities and Exchange Commission v. Stephen P. Gardner, et al., Civil*
14 *Action No. 04 CV 2002 (S.D. Cal.).*

15 *The Commission's Complaint alleged, among other things, that Peregrine and*
16 *its senior officers fraudulently inflated the revenues Peregrine reported in its filings*
17 *with the Commission and elsewhere. Peregrine improperly recorded millions of*
18 *dollars of revenue based on non-binding arrangements with resellers. This ultimately*
19 *caused uncollectible receivables from the non-binding arrangements to swell on*
20 *Peregrine's balance sheet. The Complaint further alleged that Peregrine's*
21 *management improperly wrote off unpaid receivables by falsely characterizing the*
22 *write-offs as "acquisition costs and other." According to the Commission's*
23 *Complaint, Stulac knew, or was reckless in not knowing, that the receivables*
24 *Peregrine intended to write off were unrelated to acquisitions and should not have*
25 *been recorded as "acquisition costs and other." The Complaint also alleged Stulac*
26 *knew, or was reckless in not knowing, that Peregrine's 2001 financial statements*
27 *improperly recognized millions of dollars of revenue from agreements with resellers.*
28 *The Complaint alleged that, by engaging in this and other conduct, Stulac violated*

1 *anti-fraud provisions of the Exchange Act, and aided and abetted violations of the*
2 *reporting provisions of the Exchange Act.*

3 *In view of the foregoing, the Commission deems it appropriate to impose the*
4 *sanction agreed to in [Mr. Stulac's] Offer.*

5 *Accordingly, it is hereby ORDERED, effective immediately, that:*

6 *[Respondent] is suspended from appearing or practicing before the*
7 *Commission as an accountant.*

8 *After five (5) years from the date of this order, [Mr. Stulac] may request that*
9 *the Commission consider reinstatement by submitting an application ... to resume*
10 *appearing or practicing before the Commission...*

11 FIRST CAUSE FOR DISCIPLINE

12 (Discipline by SEC)

13 12. Respondent is subject to disciplinary action under section 5100(l) of the code in that:
14 (i) on September 14, 2009, a final judgment was entered against Stulac, permanently enjoining him
15 from future violations of Sections 10(b) of the Exchange Act and Rule 10b-5 thereunder, and from
16 aiding and abetting violations of Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13
17 thereunder, in the civil action entitled Securities and Exchange Commission v. Stephen P. Gardner,
18 et al., Civil Action No. 04 CV 2002 (S.D. Cal.); and (ii) on or about September 18, 2009, in SEC
19 Release No. 60693 and Accounting and Auditing Enforcement Release 3054 / Administrative
20 Proceeding File No. 3-13619, the SEC suspended Respondent's right to appear or practice before
21 that body. The circumstances leading to Respondent's suspension are set forth in paragraphs 9 to
22 11, above.

23 SECOND CAUSE FOR DISCIPLINE

24 (Discipline by Governmental Agency)

25 13. Respondent is subject to disciplinary action under section 5100(h) of the code in that
26 on or about September 18, 2009 a governmental body or agency suspended Respondent's right to
27 practice before that governmental body or agency following a judgment against Respondent by
28

1 that governmental agency on or about September 14, 2009. The circumstances are described in
2 paragraphs 9 to 12, above.

3 THIRD CAUSE FOR DISCIPLINE

4 (Failure to Report Suspension)

5 14. Respondent is subject to disciplinary action under sections 5100(g) and 5063(a)(3) of
6 the code in that Respondent failed to report to the CBA his September 18, 2009 suspension as an
7 accountant by the United States Securities and Exchange Commission to the CBA within 30 days
8 of notice thereof.

9 PRAYER

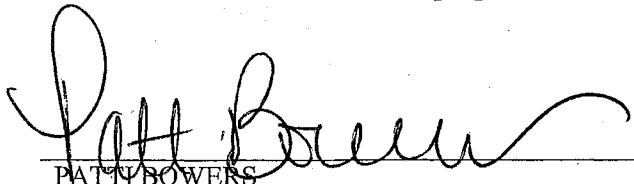
10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the California Board of Accountancy issue a decision:

12 1. Revoking or suspending or otherwise imposing discipline upon Certified Public
13 Accountant Certificate Number 77311 issued to Daniel F. Stulac;

14 2. Ordering Daniel F. Stulac to pay the California Board of Accountancy the reasonable
15 costs of the investigation and enforcement of this case, pursuant to Business and Professions
16 Code section 5107;

17 3. Taking such other and further action as deemed necessary and proper.

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20 DATED: August 24, 2011


PATTY BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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